IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.763 OF 2006
IN
SUIT NO.1491 OF 1980

Yuvrani Hansadevi ..Plaintiff

V/s.

Jafar Farooq Vohra & anr. ..Defendants

Mr.Farhan Dobhas i/b. M/s.Mankesha & Sethana for the plaintiff
None for the defendants

CORAM : S.A.BOBDE, J.

DATE : 21ST FEBRUARY, 2007

P.C.

1. This is an application for setting aside the dismissal of the suit because of a self operative order. The plaintiff was directed to pay costs by an order dated 16th January, 2006 failing which it was directed that the suit shall stand dismissed.

2. Apparently, the plaintiff made an attempt to pay the costs on 19th January, 2006. However, this Court declined to accept payment on the ground that the suit was already stood dismissed on failure to

pay costs on 16th January, 2006. The plaintiff has filed an affidavit in support of this motion stating that she is an old lady, resident of Madhya Pradesh. She has stated that she was not informed about the obligation to pay costs and when she came to Mumbai she did not pay the costs.

3. There is no reason to doubt the plaintiff's bona fide since she apparently had a cheque ready for payment of costs on 19th January, 2006.

4. In the circumstances, this appears to be a fit case for restoring the suit.

5. Notice of motion is, therefore, allowed in terms of prayer clauses (a) and (b).

(S.A.BOBDE, J.)